Consumer Advocate's Final Report

Auto Insurance

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Executive Summary

Affordability, availability, and transparency are the main things Nova Scotia consumers want from their car insurance. That's what I determined in the interim report released in June 2003. My conclusion hasn't changed. In this report I build on my earlier recommendations to present what I think is the best solution for consumers to rising car insurance premiums.

Since my Interim Report in June 2003, changes to insurance regulations have been yielding positive results for consumers. Costs are going down significantly for some, as their policies are moved out of the high risk Facility Association coverage and back into the regular market. Other drivers are starting to get clear, direct reasons from their insurance companies when they are denied coverage or when their policies are not being renewed. Of course, more still needs to be done.

My role as consumer advocate is to develop recommendations to protect the interests of Nova Scotians who must buy car insurance. I recommend the following:

- Help reduce accident rates through education. The more accidents, the more claims. The more claims, the greater the cost of insurance. Make information available to drivers to help them understand how they can lower their risk and prevent accidents.

- Reduce frivolous and fraudulent claims through education. Help consumers understand that when they get an insurance payout, that money comes from everybody's pocket. If they claim an unfair amount, they are cheating their friends and neighbours, not some anonymous corporation.

- Reduce unrealistic consumer expectations through education. Car insurance is meant to cover big losses, not every nick and scratch. Big expectations equal big premiums.

- Expand on new regulations to ensure that rates are reduced for consumers in the short term and protected from unfair increases in the long term.

- Put the onus on insurance companies to prove the need for a rate increase to the new board.

- After rates come down 20 per cent from their May 1, 2003, level, hold those rates for at least 12 months after limits on pain and suffering awards are in place. Even then, allow increases only after they are reviewed and approved by the new board.

- Carefully monitor the results of legislative changes to make sure they are effective.

- Introduce more choice in car insurance products, especially for liability coverage and accident benefits. Consumers should be able to choose a very economical basic car insurance plan. Consumers should have the option to buy increased accident benefits (Section B), especially if they do not have other medical or health care plans.

- Planning the next steps for the system is important and I recommend the continuation of the Consumer Advocate position, regardless of who occupies it, to promote fairness and accessibility for consumers.

- Insurance companies and their agents need to learn to deliver explanations in plain, clear language.

- Government, too, needs to get better at educating consumers. The Consumers Guide to Auto Insurance that it released last fall was a good step that now needs to be built on to encompass more information for all types of insurance consumers.

Introduction

In my interim report, released in June of this year, I observed that Nova Scotians were concerned primarily about three areas of car insurance: cost, the ability to buy the coverage they need, and a desire for more transparency in the way insurance companies conduct business or affordability, availability, and transparency. Those three issues are still upper most in the minds of consumers.

Car insurance is a useful, necessary, and mandatory type of protection. It combines three forms of coverage:

- property insurance that covers repairs or replacement of the vehicle if it is damaged or stolen
- liability insurance that pays someone who has been injured or who sues you as a result of an accident
- personal insurance which protects you if you are hurt in an accident, no matter who is at fault, but also if you are hit by an uninsured or unidentified driver

These three main types of insurance are found in the four major sections of the car insurance policy (Appendix 1 The Automobile Insurance Policy).

My report has two main parts. In "Putting the Report in Context," I try to explain the state of car insurance in this province, in all its complexity. I also try to account for our current difficulties. In "Improving the System," I look at the three big issues affordability, availability, and transparency and recommend how we can make the system work better.

My Role as Consumer Advocate

As Consumer Advocate, my job is to propose methods for protecting the interests of Nova Scotians who must buy mandatory insurance.

I have communicated with more than three thousand consumers since my appointment on April 11, 2003. In addition, I have spoken to business people, representatives from industry, representatives from the legal community, representatives from seniors' groups, individual Nova Scotians, and others with an interest in our current crisis and its possible solutions.

I have called for consumers' opinions through many appearances on local and national media and in various publications. I also used those opportunities to talk to consumers to learn of the problems they face with car insurance and to ask them for their suggested solutions. I was impressed with the general level of awareness about car insurance that many of my correspondents displayed. With the cooperation of industry and government, I hope my work will help to make consumers better prepared when they buy car insurance.

I have attempted to make as through a study as time and other limitations would allow. It is my hope that this report and my ongoing study will help lead to sound, informed, and reasonable solutions for Nova Scotian consumers.

Thank you to all who have helped.

Putting the Report in Context

I have spent the last five months immersing myself in automobile insurance. In that time I have come to understand the complexity of the problems facing this industry, problems that ultimately affect all of us who must buy the product.

I have also come to understand that the problems faced by Nova Scotia drivers are being mirrored across the country. Since I released my Interim Report in June, the rising cost of car insurance has emerged publicly as a national issue. However, it is interesting to note that because of the different systems in place across the country, each province or territory is faced with developing its own solutions.

In this section I will share the main points that emerged in my search to understand the nature of the problems we face.

Consumer Attitudes and the Role of Insurance Companies

Consumer expectations of a simple car insurance policy are very high. People expect the standard contract will be all things to all consumers. I believe that the current contract needs to be updated and adjusted to fit the needs of Nova Scotian drivers. As I pointed out in my earlier report, the industry itself says it is "in serious need of repair" (IBC).

On the other hand, insurance companies in Nova Scotia have done a poor job of explaining their products to consumers. Consumers have a right to know as much as possible about the products they buy. However, consumers must take a more active part in getting that information to fully understand how their own risk has been assessed, how much coverage is needed, and what the benefits are in case a claim is made.

Driving is risky and getting riskier. We accept a lot of risk when we drive, but we do not always consider the level of risk that we are undertaking or our acceptance of that risk. Traffic volumes are up in our cities and on our highways. Drivers are increasingly distracted by cell phones, by CD players, by inline skaters, by skateboarders, and in numerous other ways. And many drivers are in a hurry behind the wheel. All of this contributes to greater risk we all share as drivers and non-drivers alike.

Insurance companies have led us to expect that all our losses will be covered. They offer policies with low deductibles. Consumers justifiably believe that they should be compensated for every loss above that deductible amount. Insurers are now telling us, however, that they cannot cover every risk and that we must work together with government to reduce accidents and by extension to reduce claims made against insurers. Ultimately reduced claims will lead to reduced costs for all. Probably our attitudes as consumers have contributed to the situation we find ourselves in with insurance today, but it is far from being the only factor.

What Is Happening with Automobile Insurance in Nova Scotia

Since June there have been additional regulatory changes that have shown positive results for consumers. In July, the Consumer Price Index for car insurance for NS went down 2.6 per cent for the first time since March 2002. Many have been moved out of the Facility Association category and returned to regular insurance markets after the August 1st regulations came into effect. I commend the provincial government for moving as quickly as it has done given the circumstances and for not acting rashly and possibly making a bad situation worse.

The huge increases in rates that have plagued Nova Scotians in the past two years are mirrored in other provinces, other states, and other countries all over the world. The crisis in automobile insurance is not just a local problem. However, although many contributing factors are beyond our control, we can look at the situation in our province and address those things that are within our control, such as accident rates.

Accident prevention is the best way to contain insurance costs. The provincial government has worked to reduce the likelihood of accidents and must continue to so do. But I am also interested in how we can use what we learn from the statistics to help drivers manage driving risk and avoid accidents.

Drinking and Driving

One surprising statistic concerns drinking and driving. A study based on 1999- 2000 data found that Nova Scotia had the highest number of accidents in Canada related to drinking and driving. The numbers are surprising considering the efforts made by our government in graduated licensing programs, campaigns against drinking and driving, and penalties to keep drinking drivers off the road. The same study, noted that, "Almost half (48 per cent) of all reported severe injuries in Canada were caused by motor vehicle collisions ... Of these, 1 in 8 involved alcohol consumption above the national legal limit."

Accident Statistics

Each year the Nova Scotia Department of Transportation and Public Works prepares a Motor Vehicle Collision Information Report that provides information on motor vehicle accidents. There were 88 deaths on Nova Scotia's highways in 2002. On average there have been 87 deaths per year over the past 5 years.

In 2002, there were 13,824 collisions, affecting 33,427 people. Of these, 82 per cent were not injured. Only 18 per cent of our accidents result in injury. Alcohol was a factor in 487 collisions, and resulted in 29 deaths. While almost half of all fatal accidents happen in bad weather, overall, 60 per cent of accidents happen in good weather.

The good news is that in the majority of accidents there are no injuries. In 82 per cent of the accidents (27,390) people are not injured. About 18 per cent have injuries (5,949), and of these 0.2 per cent result in death (88).

Of the 13,824 accidents, about 65 per cent of accidents occur in urban areas, and most happen when we are driving home from work between 3 and 5 pm. The worst months for accidents are November and December. Those most likely to be involved in an accident are not teenagers, but people between the ages of 25 and 44.

Seat Belt Use

Seat belts and child restraint systems are well used in Nova Scotia. There were only about 76 cases where drivers and passengers were killed or seriously injured due to non-use of seat belts over the past five years. Some insurers say that there should be an automatic reduction of 25 per cent in an award if the person is not wearing a seatbelt. Some lawyers suggest the reduction be 10 to 15 per cent. Though statutory reductions may be the "next step," I do not feel comfortable recommending that the law be changed now.

Driver Education

Obviously, we must improve our attitudes and driving behavior. I suggest we continue to focus on driver education, especially for those groups that can be identified as high risk. Part of my continuing role will be to determine how statistics and other information can be communicated to consumers to help them understand ways to lower their individual risk and prevent accidents that lead to insurance claims.

How We Got Here

Despite the insurance industry's failure to effectively communicate its problems and challenges, insurers are not the only cause of our current crisis. Consumers, government, and industry are being buffeted by global influences that play themselves out locally.

Consumers that I have spoken to believe that the companies are trying to make up for their financial losses "on the backs of Nova Scotians." It is true that insurance companies and other investors lost money as a result of the aftermath of the terrorist attacks in the United States two years ago. That event had a profound impact, especially on re-insurers.

An unintended consequence of competition may also have led us to our current situation. Between 1997 and 2001, investment income allowed insurers to keep prices artificially low. The Nova Scotia Utilities and Review Board supported this conclusion earlier this year in its report on rates. Losses incurred here on premiums were made up for in the equity markets in a process known as "cash flow underwriting." That flow is not as strong now as once it was although some observers believe an end to the "hard" market is coming.

Other factors that contributed to our present situation:

- Changes in financial requirements now compel companies to write down losses sooner than was previously the case.

- Cash deposits and bond yields have fallen to levels not seen in four decades.

- Insurance companies give discount incentives to those who renew contracts with the same company, offer special prices to seniors and those with claim-free driving records, and discount multi-insurance line buyers. Taken together these practices lead to what the industry calls "rate inadequacy."

- Lower prices in Nova Scotia were subsidized to a degree by the rich Ontario market, but we can no longer rely on that support. Indeed, some industry people say recent reforms in car insurance are causing losses in Ontario as well.

- Precedent-setting court awards, and increases in the amounts of some of those awards, affect both the amount insurers must pay out for claims of a similar nature and the amount firms must set aside in reserve for past claims that have not yet been settled. Setting prices for premiums and making sure sufficient reserves are available are complicated processes that have become especially difficult in the current market.

- Class action suits, punitive damages, legal services, and time in court all contribute to higher premiums.

These factors have converged in a way that they have not done before, which is why we all are paying more to buy car insurance.

Insurance companies themselves must take part of the blame for driving costs upward. Companies that pay money for claims in larger sums than the case may merit undermine their own argument. Some companies write cheques hastily, it seems, to speed up the closing of a claim. Industry should examine this practice where and when it occurs and take corrective action.

I believe it's time the federal government recognized that it too has a role to play in managing the insurance issue. In a report released this week by the Canadian Federation of Independent Business, they ask the federal government to examine what is going on in the property and casualty industry at a national level. Given that car insurance is also a national issue, I believe it's also time the federal government took action on all insurance issues to ensure the problem doesn't get any worse.

The Case for Public Insurance

As I mentioned in my Interim Report, a lot has been written and publicly debated about how Nova Scotia's insurance system compares to other provinces.

Many people I've talked with are of the opinion that publicly-run insurance systems are more affordable for consumers. And on the surface that appears to be true. Average premiums are lower in some other provinces.

The problem is that the two types of systems – public versus private – are not so easily compared. Premiums are just one of many costs that need to be considered. I've learned that in some jurisdictions the costs for vehicle registration can be tied in to a person's driving record, so that while their premiums stay low, the cost of registration for a poor driver can be thousands.

I've also found that things like accident benefits are not comparable from province to province.

In addition to comparing costs, there is also a wide variety of conflicting information available on the pros and cons of both types of systems. A recent study by the Fraser Institute in British Columbia concluded provinces with public insurance systems suffered 20 per cent more fatal collisions. The cost of setting up a public system has been stated as low as $1 million, and as high as $400 million. Yet there is also data to support the fact that publicly-run systems spend far more resources on driver safety and education initiatives. The end result of hearing so much conflicting data is that it is still not clear which system is better – public or private.

What appears to be the main advantage of a publicly-owned insurance company is the ability to set rates differently. Public companies appear to have lower premiums based on driving record and experience, and tend not to base rates on age. In my opinion, this is not an approach that would work well in an unregulated market, since competing companies with different underwriting rules could chose to compete by only accepting policies for low risk drivers.

It is unclear at present whether a publicly-run insurance system could resolve the problems faced by Nova Scotians. I am pleased to see the Atlantic Task Force on Auto Insurance will be exploring this issue in more detail on a regional basis.

What is clear for me is that Nova Scotia needs to develop its own solution, because what works for one jurisdiction may not work the same here. My personal belief is that a privately-run insurance system is capable of providing consumers with low rates and good protection. However, I also believe that improvements are needed in Nova Scotia for our system to meet these goals.

What We Have Learned So Far

To sum up, we find ourselves in our current car insurance difficulties for a complex mix of the following:

Education, or lack thereof. Neither insurance companies nor government have taken responsibility for ensuring consumers are well informed about risk or insurance products. Both need to do more in this regard.

Competition. Although it may not feel like it to consumers who are renewing or purchasing policies these days, the insurance industry is in fact a highly competitive one. In fact, in a desire to build and maintain their client base, they kept rates artificially low in this province for over 10 years. Then, as the Nova Scotia Utility and Review Board report indicated, they tried to make up for it all at once with a series of harsh increases.

Lack of Control. In my opinion, there isn't enough regulation over the industry in Nova Scotia. While insurance companies would complain that more administration increases costs, I don't believe that government should allow an industry that sells a mandatory product to do so with so little scrutiny and control.

Industry Losses. The insurance industry has constantly maintained that despite fewer accidents, claims costs continue to increase. The review conducted by the Nova Scotia Utility and Review Board verified that this appears to be a legitimate factor. The industry itself has also admitted that investment losses have impacted their businesses, although they have indicated that these types of losses don't have much impact on rates. Unfortunately, the industry has such poor credibility with their own customers, and is so private with their finances, that consumers tend not to believe these comments

While we can't control every factor that has brought us to this point, we certainly are able to take action to fix the car insurance system in Nova Scotia.

Improving the System

As stated in my interim report, I believe that a viable, sustainable insurance system must be characterized by three main principles: affordability, availability, and transparency. While these are complex and interconnected issues, I will put forth some of the many things I considered in my role as consumer advocate and my recommendations for action.

Affordability

Recently I have heard from insurers that consumers have started paying for their own car repairs after an accident out of fear that their insurance premiums will skyrocket if they put in a claim. Auto repair shops have reported no decrease in business, but insurance companies have seen a decrease in these types of claims. Consumers have also told me stories of having to sell their vehicles because they couldn't afford the insurance. Clearly, these activities point to a product that is priced out of reach.

Some of the people to whom I have spoken think payments for minor injuries, the ones that heal rapidly and are not debilitating, are too high. Some jurisdictions have suggested limits for minor injuries of $2500 dollars. Government may wish to explore such limits if it can be determined that there is a good case for limiting such awards and if such a measure would result in overall savings for everyone. However, I strongly believe that if there is a real, permanent loss of function, then there ought to be compensation over and above the actual loss of income and other expenses. But I do not think that less severe injuries need to be compensated just because compensation may be available through someone else's insurance policy.

Frequently, people do not recognize that all claims are paid for by all drivers. But the money to pay claims does not come from some bank vault in Switzerland. It comes from our pockets, from the premiums the rest of us pay. If we are lucky, it is subsidized by investment earnings. If the markets are bad, the subsidy is lower. But the only way to really limit the cost of insurance is to limit the cost of claims.

Insurers complain about the difficulty of pricing a product, the cost of which cannot be known until after it has been provided. Insurance is a means of spreading risk. Insurers develop predictors, based on past records, of people who share similar levels of risk. Some of these people will have perfect records and will cost the insurer only administrative and selling costs. Some will have accidents and make claims. No one knows which will be which. Insurance protects us from this uncertainty. People who on average are more likely to cause an accident have to be charged higher rates. If the driver with the accident happens to be you, then you are protected from the possibility that you will lose everything you have in order to settle a damage claim.

On the other hand, since it is not your money at risk, there is little to discourage the person you hit from making a claim. Supposing there is a significant payout for what many of us might consider to be a minor injury, it will only cost an insurer (and thus the consumers) a few dollars per policy. Judges and lawyers, being human, tend to take a similar view.

The practice of insurers covering a broad range of risks at one point in the insurance cycle, then refusing to cover them when the cycle turns down, and then picking them up again in good times, is understandable but scarcely responsible. In my Interim Report, I recommended that underwriting rules the rules used by insurers to define risks and establish rate classifications should face greater scrutiny. I suggested that some rules could be prohibited "if they are subjective, arbitrary, have no relation to the risk or are contrary to public policy." I am pleased to see that the government introduced regulations to prohibit such discrimination. That really means to me that companies will not be allowed to take poorer risks in some years but not in others. They can charge more for the poorer risks, of course, but not refuse them. That is a considerable step towards increasing the fairness of the insurance system.

Since my last report, government has started to take steps to make car insurance rates and rules fairer and affordable. The Underwriting Practices Regulations that were passed in late June prohibit unfair discrimination in two ways. First, insurance companies must provide clear, plain and understandable reasons, in writing, to any person being denied car insurance coverage. And second, insurance companies cannot deny a person ... insurance overage for a variety of reasons. (See Appendix 4 Underwriting Practices Regulations.)

> *"... I bounced a monthly payment cheque with my insurance company. They then cancelled my insurance ... I find it completely absurd since according to my agent I have a 6 star driving record and have never made a claim against my insurance ..."*
>
> *Consumer Comment*

I think it is important that there be increased regulation of the insurance industry, if only to get some of the hidden information into the public eye. I do not think that there needs to be a public hearing every time some company wants to increase rates to keep up with the cost of living. That is a true waste of time and money. But I do think that someone needs to check to make sure that is all that is being done. And I think that it is important for the rules companies use to be subject to approval. Simple changes can be handled expeditiously.

I think that we need a specialist board to consider these issues, and perhaps other issues in the property and casualty insurance field. **I recommend the creation of an approval system that will be simple for the industry to comply with, and at the same time provide adequate protection for the public.** I am not sure that the public has actually been at risk from the industry, barring a few silly gaffes, but the impression that it has is widespread. A specialist board with wide powers to control any potential for abuse by the industry ought to increase public confidence in the basic fairness of the car insurance system, and at the same time eliminate any objectionable practice that may exist.

I recommend that government adopt a formal approval process for the underwriting rules. Companies should need to give statistical and other evidence to support the rules. If evidence cannot be provided, the rule ought to be struck down.

I recognize that my recommendation will be somewhat difficult for all companies to comply with; however, it is my view that they recognize there must be a trade off and a balancing of the different interests involved.

I agree with government's decision to rollback insurance rates by 20 per cent and its plan to achieve those savings through a cap on pain and suffering for minor injuries. In my view, it would not be appropriate for insurance companies to introduce any further rate increases until they have seen some objective results under the new system. **I recommend that insurance rates continue at a 20 per cent reduction from May 1, 2003, rates for at least 12 months after tort reforms are implemented, and then not increase until the new board has reviewed the rates.**

As with any good system, the insurance system is going to require close scrutiny to ensure the changes that are introduced have the desired impact on rates for consumers. **Therefore, I recommend that numbers and results should be carefully monitored to ensure the effectiveness of the legislation.**

In my view it is fair and reasonable to expect insurance companies to lower premiums by 20 per cent across the board if government implements this cap. Based on actuarial analysis, it appears this move will work. However, based on my conversations with consumers, I know that there are some who strongly oppose any kind of restriction on claims. Therefore, while this would be an effective short-term measure, **I recommend government should consider introducing choice in the future, so that consumers will have options when it comes to purchasing insurance.**

Availability

Since every driver must have car insurance, I believe every driver should have access to a range of policy options that suit their individual needs. I also believe that every driver even high-risk drivers must be able to get insurance. Many issues affecting availability were discussed above under affordability, as they are closely linked. A few additional points follow.

More Options

In my view, options should exist in both Section A and Section B of the policy. Several groups of lawyers have expressed the opinion that consumers should be able to purchase a policy that enables them to recover for pain and suffering as they now have the right to do. Some companies have discussed this option as a positive measure, and Saskatchewan has provided this measure for its consumers. Some insurers are cautions about this option and do not want to offer it on the open market. I have concerns about how such a product would work and how much it would cost. **I recommend that government continue to research this option with the goal to provide more choice in the marketplace.**

I reported in June 2003 that Section B benefits be consistent across the Atlantic Provinces. New Brunswick's Section B benefits are considerably higher than the other Atlantic Provinces. Government asked the actuary to cost out the increase that would apply to consumers if these benefits increase. It was estimated that across the board increases in Section B benefits would cause an average 8 per cent increase in the cost of the policy.

Many feel Section B benefits are not adequate and should be increased. I believe, too, that they should improve but advise the government to phase them in over time after we determine the effect of tort reform on pricing. Nevertheless, consumers should be able to buy increased protection under Section B, especially if they do not have coverage under other medical or health care plans.

To my mind, some increase is appropriate, but phasing in over time may avoid the hardship to consumers. I would feel more comfortable with having this type of change timed to occur after there has been at least one year's experience with tort reforms.

The Government Plan released after my Interim Report in June states that consumers should have options to buy increased Section B benefits especially if they do not have other medical or health care plans. I fully support choice and commend the government on this recommendation.

High-Risk Drivers

As I noted earlier, new regulations against discrimination will remove more than one-third of the people who are now in Facility Association, which is improving access to insurance for many consumers who were unfairly assessed. Since each of us pay for high-risk drivers through our own policies, I thin' it's important that this risk category only insure people who truly belong there.

Facility Association has always followed a process where they are allowed to apply for and have rate increases approved once a year by the Nova Scotia Utility and Review Board. I believe this process should continue under the operation of the new insurance board.

And I don't believe high-risk drivers should benefit from a 20 per cent roll back. These rates, unlike others, have been subject to review, and are justified because of the increased claims costs associated with high-risk drivers.

Transparency

Consumers need to know that prices and rules are fair. They need to know what applies to them when they purchase insurance and how it influences the price. I believe there are a number of steps that can be taken to let some sunshine in on Nova Scotia's insurance system.

Continue the Role of Consumer Advocate

As I indicated in my June report, it is my belief that the complexity of the insurance market and the long-term impacts of legislative changes require that there be a consumer advocate to represent consumers and to promote consumer information and education. Measuring the results of the legislative initiatives and the impact on consumers is important to sustain lasting change.

Planning the next steps for the system is important and I recommend the continuation of the Consumer Advocate position, regardless of who occupies it, to promote fairness and accessibility for consumers. Over the next few months, I will continue to support these principles and work to ensure consumers get the information they need to understand their insurance policy.

Better Information and Education

Insurance is a complicated business. To some extent, insurers are their own worst enemies: they do not seem to be able to explain their product, they seem to adopt the attitude that they are the only ones who know the answers, and they are not good at correcting some of the serious misconceptions that inevitably occur.

The Underwriting Practices Regulations are a first step to help improve information access for consumers. **Insurance companies and their agents need to learn to deliver explanations in plain, clear language.**

Government, too, needs to get better at educating consumers. The Consumers Guide to Auto Insurance that it released last fall was a good step that now needs to be built on to encompass more information for all types of insurance consumers.

"There has to be a great deal more communication and transparency between the insurer and consumer."

Consumer Comment

Summary of Recommendations

To protect the interests of Nova Scotians who must buy car insurance, I recommend the following:

- Help reduce accident rates through education. The more accidents, the more claims. The more claims, the greater the cost of insurance. Make information available to drivers to help them understand how they can lower their risk and prevent accidents.

- Reduce frivolous and fraudulent claims through education. Help consumers understand that when they get an insurance payout, that money comes from everybody's pocket. If they claim an unfair amount, they are cheating their friends and neighbours, not some anonymous corporation.

- Reduce unrealistic consumer expectations through education. Car insurance is meant to cover big losses, not every nick and scratch. Big expectations equal big premiums.

- Expand on new regulations to ensure that rates are reduced for consumers in the short term and protected from unfair increases in the long term.

- Put the onus on insurance companies to prove the need for a rate increase to the new board.

- After rates come down 20 per cent from their May 1, 2003, level, hold those rates for at least 12 months after limits on pain and suffering awards are in place. Even then, allow increases only after they are reviewed and approved by the new board.

- Carefully monitor the results of legislative changes to make sure they are effective.

- Introduce more choice in car insurance products, especially for liability coverage and accident benefits. Consumers should be able to choose a very economical basic car insurance plan. Consumers should have the option to buy increased accident benefits (Section B), especially if they do not have other medical or health care plans.

- Planning the next steps for the system is important and I recommend the continuation of the Consumer Advocate position, regardless of who occupies it, to promote fairness and accessibility for consumers.

- Insurance companies and their agents need to learn to deliver explanations in plain, clear language.

- Government, too, needs to get better at educating consumers. The Consumers Guide to Auto Insurance that it released last fall was a good step that now needs to be built on to encompass more information for all types of insurance consumers.

Appendix 1
The Automobile Insurance Policy

Section A Third Party Liability Insurance (Section A) that protects you if you injure a person or property with your car. You must have a minimum of $200,000 in insurance to drive, but most Nova Scotians have $500,000 or $1,000,000 of this type of insurance.	Section B Accident Benefits (Section B) that protect you or a passenger to cover the costs of medical or rehabilitation benefits, funeral expenses, and loss of income. You receive these benefits only if you have no other insurance plan, such as a disability plan at work.
Section C (Only Optional Section) Loss of or Damage to Vehicle (Section C) covers loss or damage to your car in the event of an accident or loss, no matter who is at fault. This usually has a deductible of between $250 and $500 that you must pay. Section C coverage is the only optional part of the standard insurance policy and is often referred to as Collision and Comprehensive Insurance.	Section D Uninsured and Unidentified Auto Coverage (Section D) which protects you if you are in an accident with an uninsured driver or an unidentified automobile.

Appendix 2
Claims Costs

Claims remain a cost-driver even though the number of accidents has fallen, thanks to safer vehicles, driver education, greater public awareness of safety, and the diligence of drivers. Despite this, if no further measures are taken to reform the insurance system, claim costs will continue to climb and all drivers will pay more.

The cost of claims paid is a significant factor in rising premiums. An insurance industry "closed claims" study suggests such costs have risen dramatically especially for hard to evaluate claims involving minor injuries. The study, though, is perhaps relied on more than it should be. It is a sample study with little description of how the sample was chosen. It seems to overstate the increase in claims costs when compared to other sources of information.

The Canadian Bar Association has provided the results of a study of claims determined by the courts that shows a relatively steady increase in awards for minor injuries. The increase is not out of line with the cost of living. Court-determined claims amount to less than two per cent of all claims settled, but they do provide the benchmarks by which such claims are settled.

It is true that the cost of claims has risen over the last ten years. I expect the increase is due to both factors: that claims are settled at higher amounts and that there is an increasing volume of claims.

Either way, cost control is the main issue.

Appendix 3
Car Insurance Rates in Nova Scotia

Consumers enjoyed long-term stability over the 6 years from 1995 to 2001 in auto insurance premiums. It was not until March 2002 that auto insurance premiums started to rise. The Consumer Price Index (CPI) for auto insurance looks something like this:

End of Year	CPI (NS)
1995	128.6
1996	140.5
1997	140.1
1998	141.4
1999	142.8
2000	144.6
2001	143.0
2002	186.0
June 2003	198.6
July 2003	196.0

Stats Canada is in the process of reviewing how it calculates CPI, to determine the true increases in insurance. Premiums tax rose 25 per cent in 2002 and 21 per cent to date in 2003. This may be a more accurate indication of the growth in insurance premiums and a fairer indication of what an appropriate rebate to consumers should be.

Appendix 4
Underwriting Practices Regulations

The Underwriting Practices Regulations were passed in late June to prohibit unfair discrimination in two ways. First, insurance companies must provide clear, plain and understandable reasons, in writing, to any person being denied auto insurance coverage. And second, insurance companies cannot deny a person insurance overage on the grounds of

- age
- gender
- marital status
- age of vehicle (except antiques, etc.)
- previous coverage by Facility Association
- a previous refusal of insurance coverage
- previous not-at-fault accidents
- making late payments (unless they were more than 30 days late, or were the first in a series of monthly payments)
- a lapse in auto insurance coverage less than two years long (unless it was because of a driver's licence suspension)

Appendix 5
Accident Statistics

In 1999 2000, Nova Scotia had the highest number of accidents in Canada related to drinking and driving in Canada. The numbers are surprising considering the efforts made by government in graduated licensing programs, campaigns against drinking and driving, and penalties to keep drinking drivers off the road.

A Canadian Institute for Health Information study in 2002 noted that among the five provinces from which data is available, "The highest percentage of motor vehicle-related severe injury admissions was in Nova Scotia (56 per cent) while the lowest was in Manitoba (43 per cent). Nova Scotia also had the highest percentage of cases (18 per cent) with a positive blood alcohol concentration greater than the legal limit for alcohol consumption in Canada."

The same study, which was based on 1999-2000 data, noted the following: "Almost half (48 per cent) of all reported severe injuries in Canada were caused by motor vehicle collisions ... Of these, 1 in 8 involved alcohol consumption above the national legal limit."

The Nova Scotia Department of Transportation and Public Works prepares an annual Motor Vehicle Collision Information Report each year that provides information on motor vehicle accidents.

In 2002, there were 13,824 collisions, affecting 33,427 people. Of these, 82 per cent were not injured. Only 18 per cent of our accidents result in injury. Alcohol was a factor in 487 collisions, and resulted in 29 deaths. While almost half of all fatal accidents happen in bad weather, overall, 60 per cent of accidents happen in good weather.

Of the 13,824 accidents, about 65 per cent of accidents occur in urban areas, and most happen when we are driving home from work between 3 and 5 pm. The worst months for accidents are November and December. Those most likely to be involved in an accident are not teenagers, but people between the ages of 25 and 44.

As noted, the good news is that in the majority of accidents there are no injuries. In 82 per cent of the accidents (27,390) people are not injured. About 18 per cent have injuries (5,949), and of these 0.2 per cent result in death (88).

There were 88 deaths on Nova Scotia's highways in 2002, involving the following vehicles:

Cars, Vans	66
Pedestrians	12
Motorcycles	6
Off-highway vehicles	3
Bicycles	1
Total	88

There have been on average 87 deaths per year over the past 5 years.

Appendix 6
Understanding Facility Association

When Facility Association (FA) has a loss, everyone who buys auto insurance ends up subsidizing it. Accordingly, it is in the general public interest to ensure that FA rates recover its costs.

Facility Association's percentage of the overall market is as cyclical as the rest of the insurance industry. In 1994, it had 5.94 per cent of the Nova Scotia market. In 1999, this share had dropped to 0.76 per cent (a historical low). It was back up to 4.94 per cent in 2002, and its market share is still increasing.

FA's rates are set after approval by the Utility and Review Board. The rate process takes about four months, compared with two to three weeks in some other jurisdictions. The result is a tendency for losses to accumulate, even with 37 per cent average increases. FA's target is not to be in competition with the general market, and even to put itself out of business. Obviously, it ought not to be in competition with its members, who are subsidizing its costs, but apparently to some extent it is.

Occasionally it will have rates lower than those of some companies specializing in higher risks, driving them out of the market with the result that many drivers who could have had other coverage end up in FA to their chagrin, if not to their cost.

Appendix 7
Other Forms of Insurance

Even though my mandate did not extend to other forms of insurance like household (fire and casualty) insurance or liability insurance coverage, it is clear from the comments made to me that there are similar problems in these forms of insurance to those in auto. While it is possible that companies are attempting to make up their losses on auto from these other areas, I have been assured that this is not so. And, in fact, these areas of coverage have been hit by the same cost factors as in auto: declining investment returns and increased claims costs.

"I personally am not interested in volunteering my time to raise money to pay insurance companies."

Volunteer Comment on Increased Premiums for Community Groups

However, some of the industry reaction, such as unilateral changes in coverage, new exclusions, and situations such as the refusal to cover registered heritage properties at all, may not be fair to consumers and at least deserve a look. The issue of registered heritage properties appears to be based on a misconception of the legislation and an incorrect evaluation of the risk.

In my view the government should expand the mandate of the proposed Insurance Review Board to at least examine coverage issues in the whole casualty industry.

Appendix 8
How Insurers Assess Risk

Insurers use statistics to estimate the probability that someone will be the cause of an accident. People called actuaries do this analysis. The group deemed at highest risk is comprised of males under 25 years of age. Men of that age pay plenty for insurance even though not all have accidents and make claims.

> *" I would understand if I had a number of speeding tickets, or accidents against me. But I do not. I am a careful driver ..."*
> *Comment of Male Driver 22 (re: high premium rates)*

In a competitive system, all companies in the market want the best risks, meaning average low payouts and lower rates for their customers. They can afford to give their best risks lower rates. People who on average are more likely to cause an accident have to be charged higher rates. If a company charges everyone the same it will either go bankrupt or lose all its best risks to a company that offers them lower rates. In places where the rates for younger drivers tend to be closer to those for drivers who are better risks, there is some resentment from the better risk category that they are subsidizing younger drivers.

In addition to age, insurers assess risk based on other factors such as late payment of premiums. I question the validity of one missed payment as a predictor of risk. Companies should consider a grace period for those making a late payment and should make clear to consumers how missing a payment works to affect their risk profile.

> *"... I bounced a monthly payment cheque with my insurance company. They then cancelled my insurance ... I find it completely absurd since according to my agent I have a 6 star driving record and have never made a claim against my insurance ..."*
>
> *Consumer Comment*

Appendix 9
What I Heard

This is a small sample of some of the thousands of comments I received on the issue of auto insurance from April to the present day.

Consumer Comment on Lack of Information

> "The representative I spoke with (broker) ... was unable to explain why my cost had increased by 25 per cent"

Consumer Comment on Re-Insuring

> "... if a Nova Scotian works and lives abroad his or her accident free driving record is 'wiped out' and the requisite number of years is recalculated started at the date of return to Canada ... I consider this practice to be discriminatory and irrational ..."

Consumer Comment on Increased House Insurance Premiums

> " In 2001 our house insurance was $442, in 2002, $557, and in 2003, $653 for a two year increase of 48 per cent. Surely this was not caused by increasing soft tissue injury claims."

Consumer Comment on Repair Cost Issue

> "... if a vehicle is taken to a garage for repair and the insurance company is footing the bill, the cost will be far greater than if it was paid out of pocket."

Consumer Comment on Problems Insuring Older Vehicles

> "All cars registered in Nova Scotia must pass a yearly inspection for roadworthiness and mechanical safety carried out by a government certified mechanic. This is not good enough for insurance companies who apparently, without examining the vehicle, are arbitrarily declaring it to be unsafe because of its age."

Consumer Comment on Tort Actions

> "... many have become infected with the 'American way' of law, sue first and ask questions later."

Consumer Comment on Transparency

> "What I am suggesting is that there be a requirement for insuring companies to provide customers a clear set of the rules which govern how their rates are established or more importantly what are the common occurrences which could lead to dramatic changes in rates."

Consumer Comment on Insurance Industry

> "In the existing system, the insurance industry makes all the rules, holds a complete monopoly, and is free to pick and choose who they want to insure."

Consumer Comment on Government's Role

"If governments make it mandatory by law that all drivers must purchase insurance, it then becomes their responsibility to police the industry to ensure fairness, reasonable pricing, and ethical behavior on the part of the insurance industry."

Consumer Comments on Driver Safety

"Greater discounts should be given to those drivers who complete safe driving courses, as their defensive driving skills are far superior to someone who learns all the mistakes from their parents or friends."

"... why not try to reduce the number of accidents by retesting and putting people through a defensive driving course every 5 to 10 years ... Since insurance rates are rising due to claims, then maybe reducing the number of accidents that occur would help."